

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 281

**Introduced by Assembly Member De Leon
(Coauthor: Assembly Member Conway)**

February 12, 2009

~~An act to amend Section 48001 of the Food and Agricultural Code, relating to agriculture. An act to add Article 2 (commencing with Section 5911) to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, relating to agriculture.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 281, as amended, De Leon. ~~Citrus fruit crop: California Citrus Advisory Committee. Citrus disease prevention: California Citrus Disease Prevention Committee.~~

Existing law generally provides for the eradication of pests that threaten this state's agriculture. Existing law provides that there is in the Department of Food and Agriculture the California Citrus Advisory Committee, comprised as specified. The committee is required to develop and make recommendations to the Secretary of Food and Agriculture on all matters regarding the implementation of an inspection program, including, among others, procedures for implementing an inspection program that is to include certain features as provided.

This bill would specify that procedures for implementing an inspection program shall also include development of a communications program to inform producers and handlers of the requirements of the inspection program.

This bill would create in the Department of Food and Agriculture the California Citrus Disease Prevention Committee, which would consist

of 17 members (14 producers in the citrus industry, 2 citrus nursery operators, and 1 public member) to be appointed by the Secretary of Food and Agriculture, as specified. The bill would set out the powers and duties of the committee, including, among others, the authority to conduct, and contract with others to conduct, informational programs to educate residential owners of citrus on the prevention and eradication of diseases or vectors specific to citrus and programs for surveying, detecting, analyzing, and eradication of citrus diseases. The bill would provide for a monthly assessment, as provided and for specified related purposes, to be paid by producers, as defined, and remitted to the department and deposited into the Department of Food and Agriculture Fund. The bill would authorize and require the secretary to take certain actions in detecting, quarantining, and eradicating the disease Huanglongbing. The bill would provide for a referendum voting procedure regarding the continued operation of these provisions.

Because this bill would impose assessment requirements on producers and handlers of citrus, the violation of which would be a misdemeanor under other provisions of existing law, this bill would create a new crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 2 (commencing with Section 5911) is
2 added to Chapter 9 of Part 1 of Division 4 of the Food and
3 Agricultural Code, to read:

4

5 Article 2. Citrus Disease Prevention

6

7 5911. (a) The Legislature hereby finds and declares that the
8 citrus killing diseases, Huanglongbing, citrus leprosis, citrus
9 variegated chlorosis, and citrus canker, and the associated vectors

1 *present a clear and present danger to California's citrus industry,*
2 *as well as to other commodities and plant life.*

3 *(b) This article is intended to establish an industry funded*
4 *program to assist with the eradication of diseases and vectors*
5 *specific to citrus when found in California.*

6 *(c) This article is not intended to create new mandates or*
7 *circumvent state and federal authority on other agricultural*
8 *commodities.*

9 *(d) This article is not intended to establish a precedent, or to*
10 *supersede, or to reduce or in any way alter government funding*
11 *of the effort to combat citrus diseases and other pests in this state.*

12 *(e) The prevention and management of citrus diseases is affected*
13 *with the public interest. The provisions of this article are enacted*
14 *for the protection of the industry and in the exercise of the police*
15 *power of the state for the purpose of protecting the health, peace,*
16 *safety, and general welfare of the people of this state.*

17 *5912. Unless the context otherwise requires, the following*
18 *definitions shall govern the construction of this article:*

19 *(a) "Carton" means a unit equivalent to 40 pounds of fruit.*

20 *(b) "Citrus" means "citrous" and any plants of the genera*
21 *Citrus, Fortunella, Poncirus, and all hybrids having one or more*
22 *of such as parents.*

23 *(c) "Citrus disease" includes any infectious, transmissible, or*
24 *contagious disease or vector infesting citrus trees.*

25 *(d) "Committee" means the California Citrus Disease*
26 *Prevention Committee.*

27 *(e) "Department" means the Department of Food and*
28 *Agriculture.*

29 *(f) "Districts," except as otherwise provided in Section 5913,*
30 *consist of the following geographical areas:*

31 *(1) District 1 consists of all growing areas in San Bernardino*
32 *County and all other areas to the south, west, and east of San*
33 *Bernardino County that are not included in any other district.*

34 *(2) District 2 consists of all growing areas in the Counties of*
35 *Monterey, San Luis Obispo, Santa Barbara, and Ventura.*

36 *(3) District 3 consists of all growing areas in Kern County.*

37 *(4) District 4 consists of all growing areas in Tulare County.*

38 *(5) District 5 consists of all growing areas in Fresno County*
39 *and all other areas to the north that are not included in any other*
40 *district.*

1 (g) “Handler” means a person or entity who receives citrus
2 from a producer and who prepares the citrus for fresh market.

3 (h) “Marketing season” begins October 1 of each year and ends
4 September 30 of the next year.

5 (i) “Person” means a producer, handler, or any other entity
6 that holds title to citrus subject to assessment.

7 (j) “Producer” means any person in this state who is a grower
8 of citrus, but does not include a citrus nursery.

9 (k) “Secretary” means the Secretary of Food and Agriculture.

10 5913. (a) There is hereby created in the department the
11 California Citrus Disease Prevention Committee.

12 (b) The committee shall be composed of 17 members. Fourteen
13 producer representatives shall be appointed by the secretary from
14 nominations received from each district. District representation
15 shall be determined by the secretary on a proportional basis equal
16 to the production history of each district for the previous two years.

17 (c) One member shall be a public member, appointed by the
18 secretary from the nominees recommended by the committee.

19 (d) Two members shall be citrus nursery operators, one
20 representing northern California, defined as counties in the San
21 Joaquin Valley and north but not including counties on the coast
22 who shall be represented by a southern California designee; and
23 one representing southern California, appointed by the secretary
24 from the nominees recommended by the committee.

25 (e) (1) The initial members of the committee shall be appointed
26 within 30 days of the enactment of this article. The members shall
27 serve staggered terms. The terms of the members of the committee
28 shall expire as follows:

29 (A) Two members on September 30, 2010.

30 (B) Five members on September 30, 2011.

31 (C) Five members on September 30, 2012.

32 (D) Five members on September 30, 2013.

33 (2) The members of the committee shall allocate the initial terms
34 among themselves by lot or other method.

35 (f) Appointments to the committee shall be for terms of five
36 years. Vacancies shall be immediately filled by the secretary based
37 on recommendations from the committee for the unexpired portion
38 of the terms in which they occur.

1 (g) *The secretary and other appropriate individuals, as*
2 *determined by the committee, shall be nonvoting ex officio members*
3 *of the committee.*

4 (h) *Committee members may be compensated for reasonable*
5 *expenses actually incurred in the performance of their duties, as*
6 *determined by the committee and concurred in by the secretary.*

7 (i) *The committee shall meet at the request of the secretary, the*
8 *committee chairperson, or upon the request of three committee*
9 *members.*

10 (j) *The committee shall appoint a chairperson, one or more vice*
11 *chairpersons, and any other officers it deems necessary.*

12 (k) *The Legislature finds and declares that persons appointed*
13 *to the committee are intended to represent and further the interests*
14 *of the citrus industry, and that this representation and furtherance*
15 *is intended to serve the public interest. Accordingly, the Legislature*
16 *finds that, with respect to persons who are appointed to the*
17 *committee, the citrus industry is tantamount to, and constitutes,*
18 *the public generally within the meaning of Section 87103 of the*
19 *Government Code.*

20 5914. (a) *The powers and duties of the committee are limited*
21 *to activities involving the producers of citrus and residential*
22 *owners of citrus.*

23 (b) *The committee may do all of the following:*

24 (1) *Conduct, and contract with others to conduct, either or both*
25 *of the following:*

26 (A) *Informational programs to educate residential owners of*
27 *citrus on the prevention and eradication of diseases or vectors*
28 *specific to citrus.*

29 (B) *Programs for the surveying, detecting, analyzing, and*
30 *eradication of diseases specific to citrus involving producers of*
31 *citrus and residential owners of citrus.*

32 (2) *Take by grant, purchase, gift, devise, lease, or otherwise*
33 *and hold, use and enjoy, and lease, or otherwise dispose of, real*
34 *and personal property of every kind and description necessary to*
35 *the full and convenient exercise of the committee's powers.*

36 (3) *Cause fees to be levied, as provided in Section 5919, to pay*
37 *any obligation of the committee and to accomplish the purposes*
38 *of the committee in the manner provided in this article.*

39 (4) *Make contracts, and employ, except as otherwise provided*
40 *in this article, all persons, firms, and corporations necessary to*

1 *carry out the purposes and the powers of the committee, and at*
2 *any salary, wage, or other compensation as the committee shall*
3 *determine.*

4 *(5) Perform any and all acts either necessary or proper to fully*
5 *and completely carry out the purposes for which the committee*
6 *was organized.*

7 *(6) Recommend to the secretary the adoption of regulations*
8 *consistent with the powers and duties of the committee.*

9 *(c) The committee shall not engage in any activity deemed by*
10 *the secretary to be contradictory to any eradication program or*
11 *quarantine implemented to address citrus diseases or related*
12 *vectors.*

13 *5915. (a) Upon receipt of a recommendation from the*
14 *committee for the adoption of regulations, the secretary shall do*
15 *one of the following within 30 working days:*

16 *(1) Initiate the rulemaking process to adopt the recommendation*
17 *of the committee.*

18 *(2) Decline to initiate the rulemaking process and provide the*
19 *committee with a written statement of reasons for the decision.*

20 *(3) Request the committee to provide additional information*
21 *regarding the recommended regulations.*

22 *(b) All regulations adopted pursuant to this article shall be*
23 *adopted in compliance with the Administrative Procedure Act*
24 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*
25 *Division 3 of Title 2 of the Government Code), and may be*
26 *subsequently repealed or amended as provided for in that act.*

27 *5916. No member or agent of the committee shall be personally*
28 *liable for the actions of the committee or the department. No*
29 *member or agent of the committee is responsible individually in*
30 *any way to any other person for errors in judgment, mistakes, or*
31 *other acts, by either commission or omission, as a principal, agent,*
32 *or employee except for his or her own individual acts of dishonesty*
33 *or crime. No member or agent of the committee is responsible*
34 *individually for an act or omission of any other member or agent*
35 *of the committee or the department. Liability is several and not*
36 *joint, and no member or agent of the committee is liable for the*
37 *default of any other member or agent of the committee or the*
38 *department.*

1 5917. *The committee shall reimburse the secretary for all*
2 *expenditures incurred by the secretary in carrying out his or her*
3 *duties and responsibilities pursuant to this article.*

4 5918. (a) *The disease Huanglongbing is not native to the State*
5 *of California and has no known cure. The Legislature hereby*
6 *declares the introduction of this serious citrus disease would be*
7 *detrimental to the state, causing irreparable damage to the*
8 *agricultural industry and the environment.*

9 (b) *The secretary may adopt quarantine or other regulations*
10 *which prohibit the importation of Huanglongbing.*

11 (c) *The secretary shall conduct an ongoing survey and detection*
12 *program for Huanglongbing. Whenever and wherever*
13 *Huanglongbing is discovered, the secretary shall immediately*
14 *investigate the feasibility of eradication. If eradication is feasible,*
15 *the secretary shall perform the eradication in cooperation with*
16 *federal, city, county, and other state agencies taking those steps*
17 *and actions the secretary deems necessary.*

18 (d) *The department, with the cooperation of the University of*
19 *California, the United States Department of Agriculture, or other*
20 *agencies, may develop and implement biological control methods*
21 *to eradicate or control Huanglongbing in any area of the state,*
22 *and may conduct studies for those purposes.*

23 5919. (a) *During the first marketing season, beginning*
24 *February 1, 2010, and ending September 30, 2010, the monthly*
25 *assessment to be paid by producers shall be one cent (\$0.01) per*
26 *carton. Thereafter, in addition to any other assessments, fees, or*
27 *charges that may be required pursuant to this code, producers*
28 *shall pay a monthly assessment established by the committee that*
29 *shall not exceed seven cents (\$0.07) per carton. The assessment*
30 *shall be:*

31 (1) *Based on the number of 40 pound carton equivalents*
32 *produced.*

33 (2) *Used to purchase equipment for detecting citrus diseases,*
34 *testing citrus trees, fruit, and vectors, eradicating citrus diseases,*
35 *and contracting with labs to conduct citrus disease testing.*

36 (3) *Collected from the producer by the first handler. If a*
37 *producer prepares the citrus for market, the producer shall be*
38 *deemed the handler.*

1 (4) *Remitted to the department by the first handler, along with*
2 *an assessment form, at the end of each month during the marketing*
3 *season.*

4 (5) *Deposited in the Department of Food and Agriculture Fund*
5 *or, upon the recommendation of the committee, deposited in*
6 *accordance with Section 227 or Article 2.5 (commencing with*
7 *Section 230) of Chapter 2 of Part 1 of Division 1.*

8 (b) *The committee may recommend to the secretary an*
9 *assessment less than the amount specified in subdivision (a) or no*
10 *assessment if no disease prevention program is necessary or if*
11 *there is sufficient reserve to operate the program.*

12 5920. (a) *Upon establishment of a disease prevention program,*
13 *any handler who does not file the required monthly assessment*
14 *form and assessments by the 10th day of the month following the*
15 *month for which the assessment is payable shall pay a penalty of*
16 *10 percent of the assessment owed and, in addition, 1 1/2 percent*
17 *interest per month on the unpaid balance.*

18 (b) *Upon establishment of a disease prevention program, it shall*
19 *be unlawful for any handler to refuse to collect the assessments*
20 *or remit the assessments and the proper forms required by this*
21 *article.*

22 5921. (a) *Beginning in the 2016–17 marketing year, the*
23 *secretary shall hold one or more hearings to determine whether*
24 *the operation of this article should be continued. The secretary*
25 *may waive referendum under this article if, following a hearing,*
26 *the secretary determines there is no substantial question of*
27 *opposition to doing so among affected assessment payers.*
28 *Thereafter, the secretary shall conduct the review process every*
29 *four years.*

30 (b) *As used in this section, “substantial question of opposition”*
31 *means opposition to the substance of the petition among currently*
32 *affected assessment payers, and is not intended to mean a*
33 *particular number of assessment payers.*

34 5922. (a) *If the secretary finds after the hearing that a*
35 *substantial question exists among affected payers under this article*
36 *regarding whether the operation of this article should be continued,*
37 *the secretary shall submit the article for approval utilizing the*
38 *following voting procedures set forth in this section and Sections*
39 *5923 to 5928, inclusive.*

1 (b) *Within 90 days of the secretary determining the requirement*
2 *for referendum has been met, the secretary shall establish a list*
3 *of those persons eligible to vote on the continued implementation*
4 *of this article.*

5 (c) *Eligibility shall be limited to the persons who paid the*
6 *assessment on citrus in the immediately preceding marketing*
7 *season.*

8 (d) (1) *In establishing the list, the secretary may require*
9 *handlers, producers, and others to submit the names, mailing*
10 *addresses, and assessment values of all producers who paid the*
11 *assessment on citrus in the immediately preceding marketing*
12 *season.*

13 (2) *The information required by the secretary shall be filed*
14 *either with the monthly assessment form or no later than 30 days*
15 *following receipt of a written notice from the secretary requesting*
16 *the information.*

17 (e) *Any producer whose name does not appear on the secretary's*
18 *list may have his or her name added to the list by filing with the*
19 *secretary a signed statement identifying himself or herself as a*
20 *producer that paid an assessment during the most recent marketing*
21 *season.*

22 5923. *For the purpose of voting in the referendum required in*
23 *Section 5922, only a person required to pay the assessment*
24 *pursuant to Section 5919 shall have the right to vote.*

25 5924. *In determining whether this article shall become*
26 *inoperative, the secretary shall find that at least 40 percent of the*
27 *total number of persons from the list established by the secretary*
28 *participated in the referendum, and that either one of the following*
29 *occurred:*

30 (a) *Sixty-five percent or more of the persons who voted in the*
31 *referendum voted in favor of this article, and the persons who*
32 *voted paid a majority of the assessment dollars on citrus in the*
33 *preceding marketing season that were paid by all the persons who*
34 *voted in the referendum.*

35 (b) *A majority of the persons who voted in the referendum voted*
36 *in favor of this article, and the persons who voted paid 65 percent*
37 *or more of the assessment dollars on citrus in the preceding*
38 *marketing season that were paid by all the persons who voted in*
39 *the referendum.*

1 5925. *In determining whether the referendum is approved by*
2 *producers pursuant to the provisions of this article, the secretary*
3 *shall consider the vote in favor of the referendum of any nonprofit*
4 *agricultural cooperative marketing association, which is authorized*
5 *by its members so to assent, as being the assent, approval, or favor*
6 *of the producers that are members of, or stockholders in, that*
7 *nonprofit agricultural cooperative marketing association.*

8 5926. *The secretary shall establish a period in which to conduct*
9 *the referendum that shall not be less than 10 days nor more than*
10 *60 days in duration. The secretary may prescribe additional*
11 *procedures to conduct the referendum. If the initial period*
12 *established is less than 60 days, the secretary may extend the*
13 *period. However, the total referendum period may not exceed 60*
14 *days.*

15 5927. *Nonreceipt of a ballot shall not invalidate a referendum.*

16 5928. (a) *If the secretary finds that a favorable vote has not*
17 *been given as provided in this article, this article shall become*
18 *inoperative within one year of the referendum.*

19 (b) *If the secretary finds that a favorable vote has been given*
20 *as provided in this article, he or she shall certify and give notice*
21 *of the favorable vote to all persons whose names and addresses*
22 *may be on file with the secretary as provided in Section 5922.*

23 SEC. 2. *No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*

32 ~~SECTION 1. Section 48001 of the Food and Agricultural Code~~
33 ~~is amended to read:~~

34 ~~48001. (a) There is in the department the California Citrus~~
35 ~~Advisory Committee.~~

36 ~~(b) The committee shall be comprised as follows:~~

37 ~~(1) Eight producers.~~

38 ~~(A) Five producer members shall be engaged in the production~~
39 ~~of navel or Valencia oranges; four of which shall be engaged in~~
40 ~~the production of navel or Valencia oranges in the San Joaquin~~

1 ~~Valley, and two of the four members shall be engaged in the~~
2 ~~production of navel or Valencia oranges in Tulare County.~~

3 ~~(B) Two producer members shall be engaged in the production~~
4 ~~of lemons, one of which is engaged in the production of lemons~~
5 ~~in Ventura County.~~

6 ~~(C) One of the members shall be engaged in the production of~~
7 ~~mandarin citrus.~~

8 ~~(2) Four handlers, which have their principal place of business~~
9 ~~located in one of the following counties: Fresno, Kern, Madera,~~
10 ~~Orange, Riverside, San Bernardino, Santa Clara, Tulare, and~~
11 ~~Ventura.~~

12 ~~(A) Two handler members shall be located in the San Joaquin~~
13 ~~Valley.~~

14 ~~(B) One handler member shall be engaged in the handling of~~
15 ~~lemons in Ventura County.~~

16 ~~(e) The committee shall be appointed by the secretary from~~
17 ~~nominations submitted to the secretary by members of the navel~~
18 ~~orange, Valencia orange, lemon, and mandarin citrus industries~~
19 ~~group.~~

20 ~~(d) Committee members may be compensated for reasonable~~
21 ~~expenses actually incurred in the performance of their duties, as~~
22 ~~determined by the committee and concurred in by the secretary.~~

23 ~~(e) The committee shall meet at the request of the secretary, the~~
24 ~~committee chairperson, or upon the request of three committee~~
25 ~~members.~~

26 ~~(f) The committee shall appoint a chairperson, one or more vice~~
27 ~~chairpersons, and any other officers it deems necessary.~~

28 ~~(g) The committee shall develop and make recommendations~~
29 ~~to the secretary on all matters regarding the implementation of this~~
30 ~~chapter including:~~

31 ~~(1) Procedures for implementing an inspection program that~~
32 ~~shall include, but not be limited to, the following:~~

33 ~~(A) Mandatory hold for inspection prior to shipping, following~~
34 ~~a citrus freeze.~~

35 ~~(B) The minimum number of inspections to be conducted, and~~
36 ~~the duration of each inspection period.~~

37 ~~(C) The minimum number of samples to be taken.~~

38 ~~(D) Statistical analysis of compliance levels and determination~~
39 ~~of an acceptable level of compliance.~~

1 ~~(E) Documentation of inspection data including the number of~~
2 ~~inspectors, number of inspections performed, and budget~~
3 ~~information relating to expenses of personnel, mileage, and~~
4 ~~overhead costs.~~

5 ~~(F) Monitoring and postevaluation of program effectiveness by~~
6 ~~the secretary.~~

7 ~~(G) Development of a single memorandum of understanding~~
8 ~~between the department and all county agricultural commissioners~~
9 ~~for the counties specified in subdivision (b).~~

10 ~~(H) Development of a communications program to inform~~
11 ~~producers and handlers of the requirements of the inspection~~
12 ~~program.~~

13 ~~(2) Determinations as to which counties have met the inspection~~
14 ~~requirements.~~

15 ~~(3) Procedures for implementing a state crop estimating and~~
16 ~~acreage survey.~~

17 ~~(h) The secretary shall accept the recommendations of the~~
18 ~~committee if he or she determines that the recommendations are~~
19 ~~practicable and in the interest of the industry and the public. The~~
20 ~~secretary shall provide the committee within 30 days of receipt of~~
21 ~~the recommendations with a written statement of reasons if he or~~
22 ~~she does not accept any of the recommendations.~~